

By: Wilson

H.B. No. 1929

A BILL TO BE ENTITLED

AN ACT

relating to the breach of development agreement contracts governing land in the extraterritorial jurisdiction of certain municipalities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 212.172, Local Government Code, is amended by amending Subsections (a), (c), (e), (f), (g), and (h) and adding Subsections (i), (j), and (k) to read as follows:

(a) In this subchapter:

(1) "Adjudication" of a claim means the bringing of a civil suit and prosecution to final judgment in county or state court and includes the bringing of an authorized arbitration proceeding and prosecution to final resolution in accordance with any mandatory procedures established in the contract agreement for the arbitration proceedings.

(2) "Contract" means a contract for a development agreement authorized by this subchapter.

(3) "Extraterritorial [~~,"—"extraterritorial]~~
jurisdiction" means a municipality's extraterritorial jurisdiction as determined under Chapter 42.

(c) A contract [~~An agreement under this subchapter~~] must:

(1) be in writing;

(2) contain an adequate legal description of the land;

(3) be approved by the governing body of the

1 municipality and the landowner; and

2 (4) be recorded in the real property records of each
3 county in which any part of the land that is subject to the contract
4 ~~[agreement]~~ is located.

5 (e) A municipality in an affected county, as defined by
6 Section 16.341, Water Code, may not enter into a contract ~~[an~~
7 ~~agreement under this subchapter]~~ that is inconsistent with the
8 model rules adopted under Section 16.343, Water Code.

9 (f) The contract ~~[agreement]~~ between the governing body of
10 the municipality and the landowner is binding on the municipality
11 and the landowner and on their respective successors and assigns
12 for the term of the contract ~~[agreement]~~. The contract ~~[agreement]~~
13 is not binding on, and does not create any encumbrance to title as
14 to, any end-buyer of a fully developed and improved lot within the
15 development, except for land use and development regulations that
16 may apply to a specific lot.

17 (g) A contract:

18 (1) ~~[An agreement under this subchapter]~~ constitutes a
19 permit under Chapter 245; and

20 (2) is not a loan or grant of public money prohibited
21 by Section 52, Article III, Texas Constitution.

22 (h) A contract ~~[An agreement]~~ between a municipality and a
23 landowner entered into prior to the effective date of this section
24 and that complies with this section is validated.

25 (i) A municipality that enters into a contract waives
26 immunity from suit for the purpose of adjudicating a claim for
27 breach of the contract.

1 (j) Except as provided by Subsection (k), actual damages,
2 specific performance, or injunctive relief may be granted in an
3 adjudication brought against a municipality for breach of a
4 contract. The total amount of money awarded in an adjudication
5 brought against a municipality for breach of a contract is limited
6 to the following:

7 (1) the balance due and owed by the municipality under
8 the contract as it may have been amended;

9 (2) any amount owed by the landowner as a result of the
10 municipality's failure to perform under the contract, including
11 compensation for the increased cost of infrastructure as a result
12 of delays or accelerations caused by the municipality;

13 (3) reasonable attorney's fees; and

14 (4) interest as allowed by law, including interest as
15 calculated under Chapter 2251, Government Code.

16 (k) Damages awarded in an adjudication brought against a
17 municipality for breach of a contract may not include:

18 (1) consequential damages, except as expressly
19 allowed under Subsection (j)(2); or

20 (2) exemplary damages.

21 SECTION 2. Section 212.174, Local Government Code, is
22 amended to read as follows:

23 Sec. 212.174. MUNICIPAL UTILITIES. A municipality may not
24 require a contract [~~an agreement under this subchapter~~] as a
25 condition for providing water, sewer, electricity, gas, or other
26 utility service from a municipally owned or municipally operated
27 utility that provides any of those services.

1 SECTION 3. The changes in law made by this Act apply only to
2 a cause of action for a breach of a development agreement contract,
3 including a contract validated by Section [212.172\(h\)](#), Local
4 Government Code, that accrues on or after the effective date of
5 this Act, except to the extent that a provision of a development
6 agreement contract entered into before the effective date of this
7 Act specifically conflicts with those changes.

8 SECTION 4. This Act takes effect September 1, 2021.